

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SAMUEL L. PERKINS)	
)	
COMPLAINANT)	
)	
VS.)	CASE NO. 92-269
)	
SPEARS WATER COMPANY)	
)	
DEFENDANT)	

O R D E R

On July 16, 1992, Samuel L. Perkins filed a complaint against Spears Water Company ("Spears Water") alleging that Spears Water had billed him for more water than he actually consumed during the period December 23, 1991 through January 27, 1992. Spears Water filed its answer on July 30, 1992 denying the allegation and stating affirmatively that it only billed Mr. Perkins for water consumed during the period. A hearing was held before the Commission on September 29, 1992 at which both parties appeared and were represented by counsel.

FINDINGS OF FACT

Spears Water is a corporation that owns and operates facilities used in distributing and furnishing water to or for the public for compensation. Its principal offices are located in Nicholasville. Mr. Perkins and his wife, Deborah Perkins, reside in Lexington and are customers of Spears Water. The water purchased by Mr. Perkins is used for residential purposes.

Customers of Spears Water are billed monthly for the water they consume in accordance with Spears Water's published tariffs. The bills are based on the volume of water delivered measured by individual water meters installed on each customer's premises. The meters are read each month by meter readers employed by Spears Water. On January 29, 1992, Spears Water sent Mr. Perkins a water bill for \$340.29. The bill was for the period December 23, 1991 through January 27, 1992, the date the meter was read, and was based on consumption of 108,800 gallons. The meter reading on January 27, 1992 was 673,800 gallons.

Mr. Perkins and his family have resided at their current residence for approximately three years. The home in which they reside was constructed in 1989, shortly after they became customers of Spears Water. Their average usage is 9,892 gallons per month. The January bill was, therefore, if correct, a substantial increase in their normal monthly consumption.

When Spears Water noticed the unusual increase in consumption for January recorded by Mr. Perkins' meter, it sent a maintenance man to check the meter reading and to generally investigate for any problems. The maintenance man visited Mr. Perkins' residence on January 29, 1992. As part of his investigation, the maintenance man also read the water meter. His reading was 1,500 gallons higher than the meter reading two days earlier thereby tending to confirm the accuracy of the earlier reading. The maintenance man could find no evidence of a leak or any other reason for the increased usage.

When the water bill first arrived at the Perkins' home, Mrs. Perkins was concerned that the high amount due might be indicative of a leak. To find out if that was so, she turned off all the water in the house and checked the water meter to see if it was still running. This procedure had been recommended to her by Spears Water on a prior occasion when a leak was discovered in the line running from the water meter to the house. However, after turning the water off at the house, the meter on this occasion stopped running, indicating to Mrs. Perkins that there was no leak.

Because there was no evidence of any leak, Mr. Perkins complained to Spears Water that their meter was defective and he refused to pay the entire bill. To determine whether it was defective, Spears Water removed the meter and sent it to Mid States Meter and Supply Company, Inc. ("Mid States") where it was tested for accuracy by a meter tester certified by this Commission. Mid States tested the meter on April 9, 1992 and found its overall accuracy to be 100.05 percent. Later the meter was tested again by the Commission at its laboratory in Lexington. The Commission laboratory conducted its tests from May 1 through May 6, 1992 and the test results indicated that the meter was operating at 99.9 percent overall accuracy.

Prior to receiving the February bill, Mr. Perkins had experienced two leaks in the water line running from the meter to the house. The first leak was discovered in May 1991 and Mr. Perkins hired a plumber to correct it. For that month, the meter registered consumption of 34,000 gallons. The second leak was

discovered in August 1991 and Mr. Perkins called the plumber who had originally installed the line to fix it. On that occasion, the water meter registered consumption of 42,200 gallons.

In February 1992, after receiving the large water bill which gave rise to his complaint, Mr. Perkins called a third plumber to inspect his water system. Although this plumber could find no evidence of a leak, he apparently advised Mr. Perkins that the water line from the meter to the house had been improperly installed. To prevent any problems developing in the future, Mr. Perkins had the third plumber install an entirely new water line.

Mr. Perkins stated that during January 1992 he had no extraordinary water usage. All of the outside spigots on the house were turned off to prevent freezing and the consumption of water was confined to the interior of the house.

Because neither Mr. Perkins, nor his wife, nor the plumber that he hired, could find any evidence of a leak when they inspected the property in February, Mr. Perkins maintains that the meter must have malfunctioned. Specifically, he believes that the meter "clicked over," that is the first digit on the meter turned over prematurely and that the correct reading should have been 573,800 gallons rather than the reading shown of 673,800 gallons. Such a reading would have indicated a consumption for February of 8,800 gallons which is slightly less than the average consumption of the Perkins household of 9,892 gallons.

In defense of the meter reading, Spears Water points out that both the independent laboratory and the Commission laboratory found

the meter to be operating within the parameters of accuracy required by this Commission. Spears Water, therefore, maintains that the meter was functioning properly and that the Perkins' were billed only for the water they consumed.

While the circumstantial evidence relied upon by Mr. Perkins is contrary to the laboratory tests relied upon by Spears Water, given all the circumstances, it provides the only rational explanation for the unusually high meter reading. The failure to find evidence of any leak by the maintenance man employed by Spears Water, by Mrs. Perkins when she received the bill, or by the plumber employed by Mr. Perkins after receiving the bill indicates that the water meter must have malfunctioned. As a result, it registered a greater volume of water than was actually consumed at the Perkins' home. Given the likelihood of a meter malfunction, the actual consumption was most probably 8,800 gallons during the billing period.

CONCLUSIONS OF LAW

Spears Water is a public utility subject to the jurisdiction of this Commission. As a public utility, it is authorized by KRS 278.030 to charge fair, just, and reasonable rates for its services. KRS 278.170 further requires that all rates be uniform within the classes served.

The January 29, 1992 water bill sent by Spears Water to the Perkins' was unreasonable in that it was based on 100,000 gallons more than the Perkins' consumed during the billing period. The Perkins' bill for that period, therefore, should be adjusted and

any amounts paid in excess of the proper amount due for the period should be refunded to the Perkins'.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

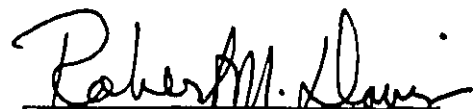
1. Spears Water shall adjust its water bill to the Perkins' for the period December 23, 1991 through January 27, 1992 based on consumption of 8,800 gallons for that period and shall refund any sums paid in excess of the proper amount due for that period.

2. All refunds due hereunder shall be paid on or before 20 days from the date of this Order.


Done at Frankfort, Kentucky, this 24th day of November, 1992.

PUBLIC SERVICE COMMISSION


Vice Chairman


Commissioner

ABSTAINS:


Chairman

ATTEST:


Executive Director